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Of Attorneys for Defendant Erik Kammerer

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF OREGON
 PORTLAND DIVISION

MEGHAN OPBROEK, an individual,

Plaintiff,

v.

CITY OF PORTLAND, a municipal corporation, and ERIK KAMMERER in his individual capacity;

Defendants.

No. 3:22-cv-00610-JR

DEFENDANT ERIK KAMMERER'S ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT

Jury Trial Demanded

In answer to Plaintiff's Second Amended Complaint, Defendant Kammerer ("Defendant") admits, denies, and alleges as follows:

Plaintiff's introductory remarks contain characterizations and legal conclusions to which a response is not required. To the extent a response is required, Defendant denies all characterizations of Defendant Kammerer, his motivations, and actions.

PARTIES

1. Defendant admits he was employed as a detective by the Portland Police Bureau (PPB) and that the Portland Police serve as law enforcement for the City of Portland.

FACTUAL ALLEGATIONS

2. Defendant lacks sufficient information or knowledge to admit or deny the allegations in Paragraph 6 of Plaintiff's Second Amended Complaint regarding her history, awareness, and beliefs, and therefore denies the same.

3. Defendant admits that on May 25, 2020, police officers caused the death of George Floyd, and that protests, demonstrations, civil disturbances, and riots then ensued across the country, including for more than 100 days in Portland, Oregon.

4. Defendant admits the protests in Portland took place at various locations around the City.

5. Defendant lacks sufficient information or knowledge to admit or deny the allegations in Paragraphs 10 through 13 of Plaintiff's First Amended Complaint regarding Plaintiff's attendance, motivations, or observations of protests and therefore denies the same.

6. Defendant admits that on the evening of June 25, 2020, into the morning of June 26, 2020, after the declaration of an unlawful assembly, the announcement of multiple dispersal orders and use of force warnings, PPB and other law enforcement officers moved north on Martin Luther King to disperse protestors who had refused to heed the lawful dispersal orders. Defendant further admits that some officers used distraction devices during that move.

7. Defendant admits that declarations of unlawful assembly, dispersal orders, and use of force warnings continued after officers stopped moving. Defendant further admits that some protestors continued to refuse to heed the lawful dispersal orders. Defendant otherwise lacks sufficient information or knowledge to admit or deny the allegations in Paragraphs 14 through 17 of Plaintiff's Second Amended Complaint regarding Plaintiff's encounter with PPB officers, statements to the PPB, or Plaintiff's specific actions, and therefore denies the same.

8. Defendant admits that he deployed the RBDD referenced in Paragraph 17 of Plaintiff's Second Amended Complaint but denies the remaining allegations of that paragraph.

9. Defendant admits that the RBDD injured plaintiff.

10. Paragraph 19 contains legal conclusions to which a response is not required. To the extent a response is required, Defendant denies the conclusions therein.

11. Defendant denies Paragraphs 20, 21 and 22 of the Second Amended Complaint.

12. Defendant admits that plaintiff went to the emergency room and received treatment. Defendant denies the remainder of Paragraphs 23, 24, 25 and 26 of the Second Amended Complaint.

13. Paragraphs 27 through 29 of Plaintiff's Second Amended Complaint are not directed at Defendant Kammerer. Those Paragraphs also contain legal conclusions to which a response is not required. To the extent a response is required, Defendant denies those allegations.

14. Except as specifically admitted herein in paragraphs 1 through 13 above, Defendant denies each and every remaining allegation of Plaintiff's Second Amended Complaint and the whole thereof.

FIRST DEFENSE

(Failure to State a Claim)

15. Plaintiff fails to state a claim for relief under federal or state law.

SECOND DEFENSE

(Qualified Immunity)

16. Defendant Kammerer is entitled to qualified immunity.

THIRD DEFENSE

(Oregon Tort Claims Act)

17. Plaintiff's state law claims are subject to the privileges and immunities set forth in the Oregon Tort Claims Act, ORS 30.260 *et seq.* Plaintiff's damages are limited by the cap on damages set forth in the Oregon Tort Claims Act as to all state law claims.

FOURTH DEFENSE

(Justification)

18. Defendant's actions were lawful and justified as those actions were necessary to

carry out his duties as a police officer.

FIFTH DEFENSE

(Privilege)

19. Defendant's actions were privileged as those actions were necessary to carry out his duties as a law enforcement officer.

SIXTH DEFENSE

(Immunity – ORS 30.265(6)(e))

20. The claims asserted by plaintiff arose out of a riot, civil commotion, or mob action, or out of an act or omission in connection with the prevention of the foregoing and accordingly, defendant is entitled to immunity pursuant to ORS 30.265(6)(e)).

SEVENTH DEFENSE

(Good Faith)

21. Any actions taken or any other conduct by defendant were done in good faith, based on reasonable grounds.

EIGHTH DEFENSE

(Additional Defenses)

22. Defendant reserves the right to raise additional defenses that may become apparent during discovery.

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WHEREFORE, having fully answered Plaintiff's Second Amended Complaint, Defendant prays for judgment in his favor, including an award of costs, disbursements, and fees pursuant to 42 U.S.C. § 1988.

Respectfully submitted this 27th day of January, 2025.

HART WAGNER LLP

By: /s/ Karen O'Kasey

Karen O'Kasey, OSB No. 870696
Taylor B. Lewis, OSB No. 164263
Of Attorneys for Defendant Erik Kammerer

Defendant requests trial by jury on those issues properly submitted to a jury.

/s/ Karen O'Kasey
Karen O'Kasey

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of January, 2025, I served the foregoing
**DEFENDANT ERIK KAMMERER'S ANSWER TO PLAINTIFF'S SECOND
AMENDED COMPLAINT** on the following party at the following address:

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*Of Attorneys for Defendant
City of Portland*

by electronic means through the Court's Case Management/Electronic Case File system.

/s/ Karen O'Kasey
Karen O'Kasey